

NATIONAL RECOVERY ADMINISTRATION

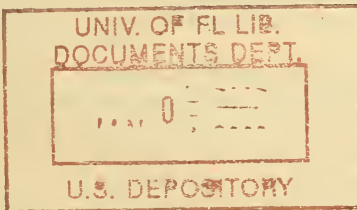
CODE APPENDIX

FOR THE

COSMETIC CONTAINER
MANUFACTURING INDUSTRY

(Subdivision of the Fabricated Metal Products
Manufacturing and Metal Finishing
and Metal Coating Industry)

AS APPROVED ON FEBRUARY 12, 1935



UNITED STATES
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Approved Code No. 84—Appendix No. 6

CODE APPENDIX
FOR THE
COSMETIC CONTAINER MANUFACTURING
INDUSTRY

As Approved on February 12, 1935

ORDER

APPROVING APPENDIX FOR THE COSMETIC CONTAINER MANUFACTURING
INDUSTRY

A SUBDIVISION OF THE FABRICATED METAL PRODUCTS MANUFACTURING AND
METAL FINISHING AND METAL COATING INDUSTRY

An application having been duly made pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, and in accordance with the provisions of Section 4 of Article IV of the Code of Fair Competition for the Fabricated Metal Products Manufacturing and Metal Finishing and Metal Coating Industry, approved November 2, 1933, as amended June 1, 1934, for approval of an Appendix establishing trade practice provisions for the Cosmetic Container Manufacturing Subdivision of said Industry, and Notice of Opportunity to be Heard having been duly publicized, and no objections having been received thereon; and the annexed report on said Appendix to said Code containing findings with respect thereto, having been made and directed to the President:

NOW, THEREFORE, on behalf of the President of the United States, the National Industrial Recovery Board, pursuant to authority vested in it by Executive Orders of the President, including Executive Order No. 6859, dated September 27, 1934, and otherwise; does hereby incorporate by reference said annexed report and does find that said Appendix to said Code complies in all respects with the pertinent provisions and will promote the policy and purposes of said Title of said Act; and does hereby order that said Appendix to said Code of Fair Competition be and it is hereby approved; provided, that Section 8 thereof be and it hereby is stayed for a period of twenty (20) days from the date hereof, and at the expira-

tion of that time it shall become effective unless good cause to the contrary is shown to the National Industrial Recovery Board before that date.

NATIONAL INDUSTRIAL RECOVERY BOARD,
By W. A. HARRIMAN, *Administrative Officer*.

Approval recommended:

KILBOURNE JOHNSTON,
Acting Division Administrator.

WASHINGTON, D. C.
February 12, 1935.

REPORT TO THE PRESIDENT

The PRESIDENT,
The White House.

SIR: This is a report on an Appendix to the Code of Fair Competition for the Fabricated Metal Products Manufacturing and Metal Finishing and Metal Coating Industry, approved on November 2, 1933, and as amended on June 1, 1934.

GENERAL STATEMENT

The Cosmetic Container Manufacturing Industry, being truly representative of this Subdivision of the Fabricated Metal Products Manufacturing and Metal Finishing and Metal Coating Industry, has elected to avail itself of the option of operating under the Code for the Fabricated Metal Products Manufacturing and Metal Finishing and Metal Coating Industry, with the assistance of additional fair trade practice provisions.

RÉSUMÉ OF THE APPENDIX

Paragraph A. Definition, accurately defines the term "Cosmetic Container Manufacturing."

Paragraph B. Governing Body, sets up a governing body consisting of members of the Subdivision and also provides for an Administration Member. This governing body is to be known as the Subdivisional Committee for the Cosmetic Container Manufacturing Subdivision.

Paragraph C. Effective Date, prescribes the effective date of the Appendix.

TRADE PRACTICES

Section 1 provides that no member shall falsely classify any product for the purpose of securing lower freight rates.

Section 2 prohibits the sale of or quotations on other products and/or commodities, as a subterfuge toward disposing of products of this Industry at less than the invoiced price plus all incidental costs.

Section 3 provides that no member shall secure confidential information by false or misleading statement or by bribery or any other false method.

Section 4 makes it a violation for any member of the Industry to use the term "advertising allowances" when applied to any part of price offer or to denote payment for the purchase of specific promotion services.

Section 5 provides that no member of the subdivision shall grant terms on payment of sales more favorable than net cash.

Section 6 makes it a violation for any member of the Industry to publish or circulate threats of suits for infringement of patents or trade marks or any other legal proceedings not in good faith.

Section 7 prohibits the breach of a written contract between a competitor and his consumer.

Section 8 makes it a violation for any member of the Industry to grant the right to purchasers to remove tools from the employer's plant because of the payment by the purchaser of fitting up charges to cover the cost of such tools and fixtures made especially for an order.

Section 9 prohibits the return by the purchaser of damaged or shopworn merchandise without previous return authorization by the said member of the subdivision.

Section 10 prohibits the making or offering to make contracts under terms of which the customer shall have the right to take delivery of any part or all of the goods after 90 days from date of first delivery; (provided, that contracts may be accepted for more extended time.)

Section 11 prohibits the failure to invoke available legal remedies upon breach of contract by a customer, for the purpose of securing competitive advantage over other members of this subdivision.

Section 12 makes it a violation for any member of the Industry to discriminate in price in favor of purchasers of goods for export compared with domestic purchasers; provided, that nothing shall prevent discrimination between purchasers that makes only due allowance for differences in grade, quality, or quantity of the commodity sold, or in the cost of selling or transportation.

FINDINGS

The Deputy Administrator in his final report to the board on said Appendix to said Code having found as herein set forth and on the basis of all the proceedings in this matter:

It has been found that:

(a) Said Appendix to said Code is well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act, including removal of obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof and will provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among the trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanctions and supervision, by eliminating unfair competitive practices, by promoting the fullest possible utilization of the present productive capacity of industries, by avoiding undue restriction of production (except as may be temporarily required), by increasing the consumption of industrial and agricultural products through increasing purchasing power, by reducing and relieving unemployment, by improving standards of labor, and by otherwise rehabilitating industry.

(b) Said industry normally employs not more than 50,000 employees; and is not classified by the National Industrial Recovery Board as a major industry.

(c) The Appendix to said Code as approved complies in all respects with the pertinent provisions of said Title of said Act, includ-

ing without limitation Subsection (a) of Section 3, Subsection (a) of Section 7, and Subsection (b) of Section 10 thereof; and that the applicant association is an association truly representative of the aforesaid Industry; and that said association imposes no inequitable restrictions on admission to membership therein.

(d) The Appendix to said Code is not designed to and will not permit monopolies or monopolistic practices.

(e) The Appendix to said Code is not designed to and will not eliminate or oppress small enterprises and will not operate to discriminate against them.

(f) Those engaged in other steps of the economic process have not been deprived of the right to be heard prior to approval of said Appendix to said Code.

For these reasons, therefore, this Appendix of said Code has been approved.

For the National Industrial Recovery Board:

W. A. HARRIMAN,
Administrative Officer.

FEBRUARY 12, 1935.

CODE APPENDIX FOR THE COSMETIC CONTAINER MANUFACTURING INDUSTRY

A SUBDIVISION OF THE FABRICATED METAL PRODUCTS MANUFACTURING AND METAL FINISHING AND METAL COATING INDUSTRY

Pursuant to Section 4 of Article IV of the Code of Fair Competition for the Fabricated Metal Products Manufacturing and Metal Finishing and Metal Coating Industry, as amended, (the terms of which apply to each member of the Cosmetic Container Manufacturing Industry Subdivision) the following provisions are established as an Appendix to said Code of Fair Competition of the Fabricated Metal Products Manufacturing and Metal Finishing and Metal Coating Industry for the Cosmetic Container Manufacturing Subdivision of that Industry.

A. *Definition.*—The term “Cosmetic Container Manufacturing” is defined to mean the manufacture for sale of unfilled containers made in whole or in part of metal (other than tin decorated containers or collapsible tubes), which are sold to the manufacturer of toilet goods in order to be used for the holding of perfume, cosmetic, and other toilet preparations.

B. *Subdivisional Committee.*—The members of the Subdivision shall set up a Subdivisional Committee for the Cosmetic Container Manufacturing Subdivision, hereafter referred to as the “Subdivisional Committee”, consisting of as many members as may be determined by and in a manner satisfactory to the Basic Code Authority and the National Industrial Recovery Board. The National Industrial Recovery Board may appoint a member of the Subdivisional Committee who shall be given reasonable notice of and may sit at all meetings of the Subdivisional Committee, but who shall be without vote and shall serve without expense to the Subdivision.

C. *Effective Date.*—This Appendix shall become effective ten (10) days after its approval by the National Industrial Recovery Board.

TRADE PRACTICES

Any member of the Subdivision who directly or indirectly through any officer, employee, agent, or representative, violates or evades any of the following trade practice provisions shall be guilty of violation of this Code.

SECTION 1. *Classification.*—No member of the Subdivision shall falsely classify any product of this Subdivision as to nature thereof for the purpose of securing lower freight rates.

SECTION 2. *Combination Sales.*—No member of the Subdivision shall sell or offer to sell commodities other than products of this Subdivision for the purpose of influencing a sale of products of this Subdivision at prices below the invoice price plus all incidental cost

of such products. If and when the products of this Subdivision are sold in combination with products of other industries, the invoice must clearly show the unit price of all articles listed.

SECTION 3. *Espionage of Competitors.*—No member of the Subdivision shall secure or attempt to secure confidential information concerning the business of a competitor by false or misleading statement or representation, by false impersonation of one in authority, by bribery or by any other unfair method.

SECTION 4. *Advertising Allowances.*—No member of the Subdivision shall use in a sales agreement the term "advertising allowances" when it is applied to any part of the price offer or used otherwise than to denote the payment for the purchase of specific promotion services. No member of the Subdivision shall arrange for advertising allowances except in agreements entirely separate and distinct from sales agreements, nor shall any member grant advertising allowances except as payments for specific promotion performances which are possible, practicable, and capable of being audited.

SECTION 5. *Terms.*—No member of the Subdivision shall grant terms of payment on sales more favorable than net cash, thirty (30) days, or, if discount is allowed, such discount shall not be in excess of two (2%) percent, 10 days proximo, net 30 days. Bills must be dated the day of shipment.

SECTION 6. *Threats of Litigation.*—No member of the Subdivision shall publish or circulate threats of suits for infringement of patents or trade marks or any other legal proceedings not in good faith, with the tendency or effect of harassing competitors or intimidating their customers.

SECTION 7. *Interference with Another's Contracts.*—No member of the Subdivision shall induce or attempt to induce the breach of a written contract between a competitor and his customer or source of supply, or interfere with or obstruct the performance of contractual duties or services covered by any such contract.

SECTION 8. *Fitting up Charges.*—No member of the Subdivision shall grant the right to purchasers to remove tools from the employer's plant because of the payment by the purchaser of fitting up charges to cover the cost of such tools and fixtures made specially for an order. The terms on fitting up charges shall be net cash. After a period of two years without a reorder, unless otherwise mutually agreed upon, the employer shall be at liberty to make any disposition or use of such tools as he desires. No exception to this Section shall be allowed except under circumstances to be defined by the Subdivisional Committee and approved by the National Industrial Recovery Board.

SECTION 9. *Goods Returned for Repair or Reconditioning.*—No member of the Subdivision shall accept, after performing his part of the agreement of sale, the return by the purchaser of damaged or shopworn merchandise without previous return authorization by the said member of the Subdivision. A charge to cover the cost of reconditioning and handling such merchandise shall be made. Nothing in this Section shall be construed to preclude the return of merchandise when authorized by a member of the Subdivision due to defects in workmanship or material.

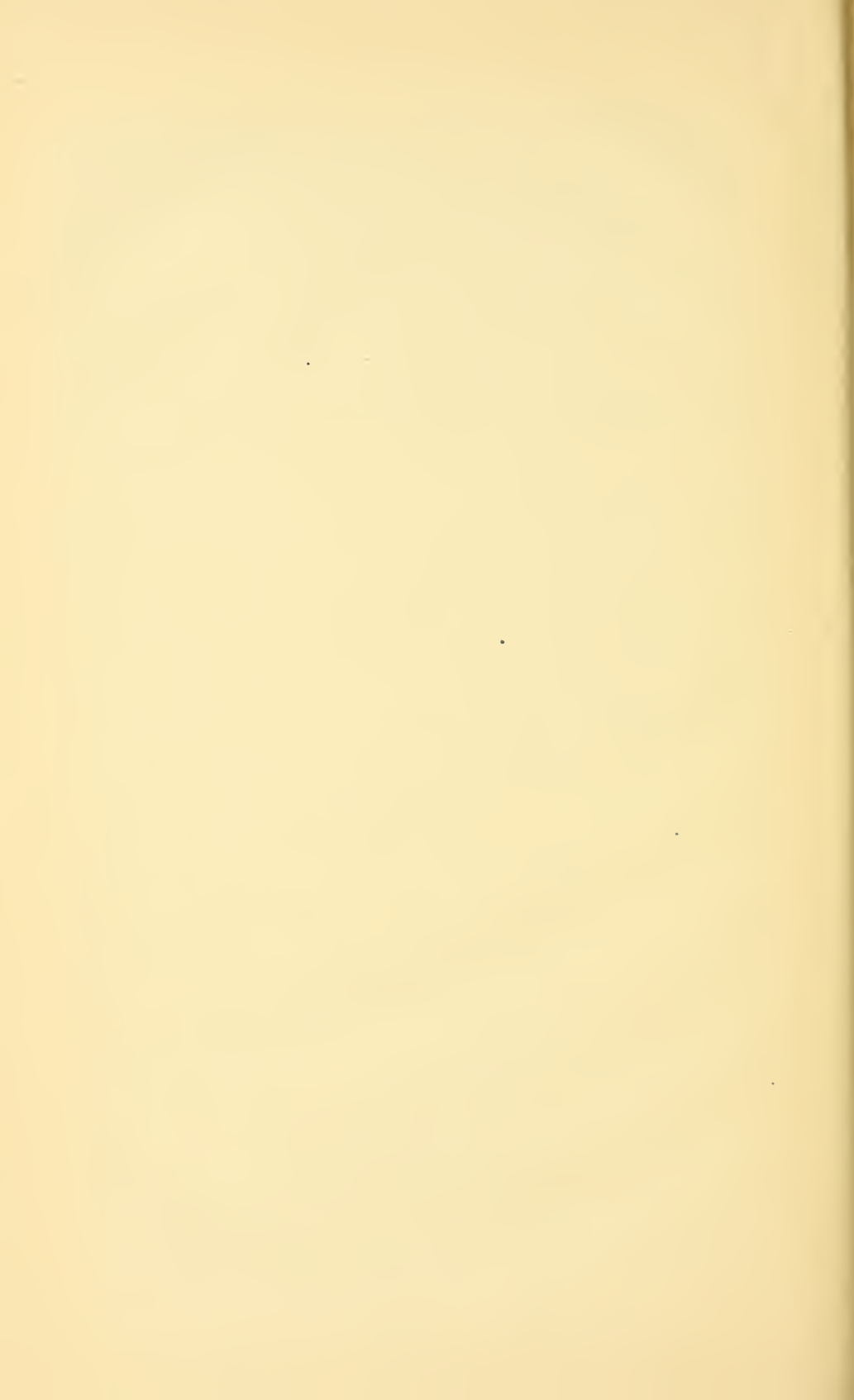
SECTION 10. *Contracts or Order for Extended Deliveries.*—No member of the Subdivision shall make or offer to make contracts,

or accept orders, under the terms of which the customers shall have the right to take delivery of any part or all of the goods after 90 days from the estimated date that the first delivery would be available for shipment or in accordance with the manufacturer's ability to produce, or to modify existing contracts or orders to include such provisions; (provided, however, that contracts or orders may be accepted for more extended deliveries at the customer's request if provision is made for adjusting the price of undelivered portions at the end of the first ninety (90) days above mentioned and at the end of each three months' period thereafter, so that price during each three months' period shall be higher or lower, as the case may be, by an amount equal to the change in labor and/or material costs entering into the manufacture of the product covered by the contract of the individual member, as of the first day of the period in comparison with these costs at the date when the contract was made or the order taken.)

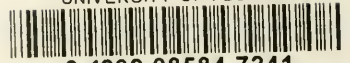
SECTION 11. *Completion and Cancellation of Contracts.*—No member of the Subdivision shall fail to invoke available legal remedies upon breach of contract by a customer, for the purpose of securing competitive advantage over other members of this Subdivision. Nothing in this Section shall be construed to preclude reasonable out-of-court settlements in cases of breach of contract.

SECTION 12. *Export Prices.*—No member of the Subdivision shall discriminate in price in favor of purchasers of goods for export as compared with domestic purchasers; provided, however, that nothing herein shall prevent discrimination between purchasers that makes only due allowance for difference in the grade, quality or quantity of the commodity sold or differences in the cost of selling or transportation. "Export trade" as used herein is defined to mean export trade as the term is used in the Export Act of 1918.

Approved Code No. 84—Appendix No. 6.
Registry No. 1636-01.



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